IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 29TH MARCH 2007 / 8TH CHAITHRA 1929

WP(C).No. 3285 of 2007(S)

MC.181/2005 OF FAMILY COURT, KASARAGOD

PETITIONER:

SHOBHA. N.V., D/O.CHANDU,
AGED 31 YEARS, NADUVILE VETTIL,
KAMBALLUR, HOSDURG TALUK.

BY ADV. SRI.M.SANTHOSHKUMAR

RESPONDENT:

DHANANJAYAN. N., S/O.SREEDHARAN,
WATCHMAN, AGED 40 YEARS,
KSRTC DEPARTMENT, MANGALORE,
P.O.MANGALORE, KARNATAKA STATE.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE M.C. PETITION, M.C.181/05 ON FAMILY COURT, KASARGODE, DATED 14.01.05.

EXT.P2 TRUE COPY OF THE COUNTER STATEMENT FILED BY THE RESPONDENT DATED 12.09.06.

EXT.P3 SERIES TRUE COPY OF THE C.M.P.60/07 AND AFFIDAVIT FILED ALONG WITH THE PETITION AND THE ORDER DISMISSING THE PETITIONS.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

AHZ/

KURIAN JOSEPH & K.T. SANKARAN, JJ.

W.P.(C) NO. 3285 OF 2007 S

Dated this the 29th day of March, 2007

JUDGMENT

Kurian Joseph, J.

The challenge is on Ext.P3 order passed by the Family Court, Kasaragod. Petitioner is the petitioner and the respondent is the opposite party in M.C.No.181 of 2005, on the file of the Family Court, Kasaragod. Petitioner claimed a monthly maintenance of Rs.2,500/-. Petitioner submitted a witness list of four witnesses. However, on 16.11.2006 only two were present. Despite a request to issue notice to the remaining witnesses, it is submitted that the Family Court Judge closed the evidence and posted the case for evidence of the respondent. Petitioner filed C.M.P.No.1740 of 2006 for reopening the evidence. That petition was allowed and notice was issued to the witnesses and the case was adjourned to 17.1.2007. It is submitted that due to some oversight batta could not be deposited. Therefore, petitioner filed C.M.P.No.60 of 2007 along with a petition for condonation of the delay in

depositing the batta. That petition was dismissed by the impugned order. Despite service of notice there is no appearance for the respondent.

2. Having heard the counsel for the petitioner and having regard to the facts and circumstances of the case, it is only appropriate that the Family Court gives an opportunity to the petitioner to have the witnesses examined. Accordingly, Ext.P3 order is set aside. The Family Court is directed to receive the batta and issue summons to the witnesses.

The Writ Petition is disposed of as above.

(KURIAN JOSEPH)
Judge

(K.T.SANKARAN)
Judge

ahz/